

APPEAL NO. 031163
FILED JUNE 17, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was originally held on December 18, 2002. In Texas Workers' Compensation Commission Appeal No. 030208, decided March 7, 2003, the Appeals Panel remanded the case back for reconstruction of the record because the audiotape recording of the original CCH was inaudible. A CCH on remand was held on April 3, 2003, with (hearing officer), again, presiding as hearing officer. The hearing officer determined that the compensable chest and thoracic spine injury does not extend to include the low back.

The appellant (claimant) appealed on two grounds: (1) that the hearing officer erred in refusing to admit additional new evidence (to rebut the hearing officer's original decision); and (2) reiterating the claimant's original appeal based on sufficiency of the evidence. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a "costal strain" and strain to her thoracic spine on _____. At issue was whether this compensable injury also included her low back. The hearing officer, both in the original decision and the decision on remand, noted that it was three weeks after the injury before the claimant began complaining of "butt pain" which the claimant translated to be low back pain. At the hearing on remand, the claimant sought to admit testimony and evidence that she had complained of low back pain much earlier. The hearing officer sustained the carrier's objection to the introduction of evidence which had been available, but not offered or admitted at the original December 18, 2002, CCH. The hearing officer did not err in so limiting the reconstruction of the record of the original CCH to evidence presented at that proceeding. The hearing officer in this hearing summarized the testimony and evidence based on her notes and allowed the parties to fill in items or testimony which had been presented, but had not been summarized by the hearing officer. We perceive no error in that process.

On the merits, the hearing officer heard the testimony and reviewed the documentary evidence in determining what facts had been established. Although the claimant had some degenerative problems, the hearing officer determined that the claimant had failed to show that the compensable injury had aggravated these degenerative conditions. Our review of the evidence does not indicate that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **FEDERAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PARKER W. RUSH
1445 ROSS AVENUE, SUITE 4200
DALLAS, TEXAS 75202-2812.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge